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**EVIDENCE — PROOF OF FOREIGN LAW — APPLICATION OF LEX FORI.** — The plaintiff brought an action to recover for personal injuries suffered in Cuba through the defendant's negligence. There was no evidence of Cuban law. *Held*, that the plaintiff is not entitled to recover. *Cuba R. Co. v. Crosby*, U. S. Sup. Ct., Jan. 9, 1912.

The court holds that the law of the forum should not be applied, since there is no general presumption that the Cuban law is the same as the common law. This decision reverses the decision in the Circuit Court of Appeals, criticized in 23 HARV. L. REV. 64.

**EXECUTION — REMEDY OF BONÂ FIDE PURCHASER OF PROPERTY TO WHICH JUDGMENT DEBTOR HAS NO TITLE.** — The sheriff sold on execution two horses which were not the property of the judgment debtor. The owner successfully replevied the horses from the *bonâ fide* purchaser. *Held*, that the purchaser may recover from the judgment creditor in an action for money had and received. *Dresser v. Kronberg*, 81 Atl. 487 (Me.).

The doctrine of *caveat emptor*, admittedly applicable to execution sales, has appeared to text writers to be inconsistent with any right of recovery by the purchaser, even though he acquires absolutely no title. See FREEMAN, VOID JUDICIAL SALES, 4 ed., § 49; KLEBER, VOID JUDICIAL AND EXECUTION SALES, § 469. However, recovery from the judgment debtor is commonly allowed on the ground that the purchaser has paid money to the debtor's use by discharging his debt. *Julian v. Beal*, 26 Ind. 220; *M'Ghee v. Ellis*, 4 Litt. (Ky.) 244. Neither this nor the doctrine of the principal case, it is submitted, is inconsistent with the doctrine of *caveat emptor*. The right of the judgment creditor is against the debtor's property, and the writ is directed solely against such property. *Heberling v. Jaggard*, 47 Minn. 70, 49 N. W. 396; *Burwell v. Herron*, 16 So. 356 (Miss.). The purchaser relies on what is professed, namely, the sale of the debtor's right in the chattel. If the debtor has no right, then there is a total failure of consideration, and so the money paid is not properly applicable to the debt. The contrary view is inequitable toward the debtor because depressing prices at execution sales. The principal case provides for a wholly equitable result, for if recovery by the purchaser is allowed against the judgment creditor, the creditor may thereupon have his judgment against the debtor vacated and a new execution awarded on the ground that the debt has never been paid. *Magwire v. Marks*, 28 Mo. 193; *Bressler v. Martin*, 133 Ill. 278, 24 N. E. 518. But *cf. Thomas v. Glazener*, 90 Ala. 537, 8 So. 153. So, it seems, the principal case is correct. See *Sanders v. Hamilton*, 3 Dana (Ky.) 550, 552. *Contra, England v. Clark*, 5 Ill. 486; *Lewark v. Carter*, 117 Ind. 206, 20 N. E. 110. If, however, there are intervening circumstances making recovery inequitable, *e. g.* bankruptcy of the debtor, then the purchaser should not be allowed to recover.

**HABEAS CORPUS — REVIEW OF HABEAS CORPUS PROCEEDINGS.** — From an order in *habeas corpus* proceedings, discharging a prisoner, error was brought. *Held*, that the order is not reviewable. *Wisener v. Burrell*, 28 Okl. 546, 118 Pac. 999. See NOTES, p. 460.

**HUSBAND AND WIFE — RIGHTS OF WIFE AGAINST HUSBAND AND IN HIS SEPARATE PROPERTY — RIGHT TO BE REIMBURSED FOR EXPENDITURES FOR NECESSARIES.** — The plaintiff, a married woman, having been abandoned by her husband without just cause, and being unable to procure necessities on his credit, purchased them with the proceeds of her labor and of her separate estate. She sought to recover from her husband the amount so expended. *Held*, that the plaintiff can recover. *De Brauwere v. De Brauwere*, 203 N. Y. 460.

The Court of Appeals, in affirming the judgment of the Appellate Division, expressly repudiates the theory of subrogation, and bases the right of action on the breach of the legal duty to support. For a discussion of the principles involved see 24 HARV. L. REV. 306.

INJUNCTIONS — ACTS RESTRAINED — BILL OF REVIEW IN ANOTHER STATE. — The wife of a divorcee sued in New York to enjoin the first wife from prosecuting an action in Illinois to annul the decree of divorce granted by the Illinois court. The Illinois decree had previously been adjudged valid by the New York courts in an action by the first wife against the divorcee. *Held*, that the injunction should not be granted. *Guggenheim v. Wahl*, 203 N. Y. 390, 96 N. E. 726.

It is clearly settled that a court of equity can enjoin parties within its jurisdiction from proceeding in an action in a foreign state when it would be inequitable to compel the complainant to defend in that state. *Gordon v. Munn*, 81 Kan. 537, 106 Pac. 286; *Miller v. Miller*, 66 N. J. Eq. 436, 58 Atl. 188. In general, the proceeding to restrain which an injunction is granted involves questions which are in litigation or could properly be litigated in the jurisdiction in which the injunction is granted. *Von Bernuth v. Von Bernuth*, 76 N. J. Eq. 177, 73 Atl. 1049; *Kempson v. Kempson*, 58 N. J. Eq. 94, 43 Atl. 97. In the principal case, however, the only forum in which the defendant can bring a bill of review is in Illinois. *Mathias v. Mathias*, 202 Ill. 125, 66 N. E. 1042. This seems to the court to be conclusive. It should at least, it is submitted, be of very great weight, on the ground of comity. *Bigelow v. Old Dominion Copper Mining, etc. Co.*, 74 N. J. Eq. 457, 71 Atl. 153. See *Harris v. Pullman*, 84 Ill. 20, 28; *Peck v. Jenness*, 48 U. S. 612, 624-625. As it is not shown that the complainant cannot get full and adequate relief in Illinois, the injunction is properly refused. Nor is the holding inconsistent with the doctrine of *res judicata*, for the complainant was not a party to the previous suit in New York.

INJUNCTIONS — ACTS RESTRAINED — PRIVATE NUISANCE ENJOINED THOUGH INJUNCTION CAUSES EXCESSIVE HARDSHIP. — The defendant, a large cement manufacturing company, was enjoined from continuing operations because a neighboring fruit-grower showed that the dust, unavoidably liberated from its furnaces, was a nuisance to him. On appeal, the defendant prayed a stay of the injunction pending the appeal and showed that the shutting down of its plant, even temporarily, would cause tremendous losses to it. *Held*, that the defendant is not entitled to the stay. *Hulbert v. California Portland Cement Co.*, 118 Pac. 928 (Cal.).

This decision accords with the well-established rule that a court of equity will interfere to prevent "private eminent domain." The court refuses to give any weight to the so-called "balance of hardship" doctrine that is finding favor with a growing minority of the American courts and is rapidly infringing upon the older rule. For a discussion of this doctrine see 22 HARV. L. REV. 596.

LEGACIES AND DEVISES — PAYMENT — INTEREST ON LEGACY PAYABLE OUT OF REVERSIONARY PROPERTY. — A testator bequeathed £10,000 to his sister to be paid out of the estate inherited by him from his mother. This consisted of a reversion following a life interest in his father. The testator died seven years before his father. *Held*, that the sister's legacy bears interest from the expiration of one year after the death of the testator. *Re Walford*, 132 L. T. J. 58 (Eng., C. A., Nov. 1, 1911).

The general rule is that when no particular time is set for the payment of legacies, they are payable with interest from the expiration of one year after the death of the testator. See *Lord v. Lord*, L. R. 2 Ch. 782, 789. The appli-